

No. 8

AN ACT

HB 118

Amending the act of July 12, 1972 (P.L.781, No.185), entitled, as amended, "An act providing debt limits for local government units, including municipalities and school districts; providing the methods of incurring, evidencing, securing and collecting debt; defining the powers and duties of the Department of Community Affairs and certain other public officers and agencies with respect thereto; exercising the inherent legislative authority of the General Assembly by providing additional over-all limitations on the incurring of lease rental and other obligations for the acquisition of capital assets to be repaid from the general tax revenues of such local government units; imposing penalties for filing false or untrue statements or refusing to give information with respect to proceedings for the incurring of debt; and conferring jurisdiction on the Commonwealth Court with respect to certain proceedings relating to the incurring of debt," providing for exemption from department approval of bonds or notes or lease rental debt of fifty thousand dollars or thirty per cent of the borrowing base whichever is less.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 409, act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," is amended to read:

[Section 409. Borrowing by Notes.—(a) Even though no bond issue has been previously authorized, a local government unit, by ordinance of its governing body, may borrow money on notes for all or any part of the cost of a project other than one involving funding debt. The debt incurred shall be evidenced by general obligation notes, guaranteed revenue notes or revenue notes, as the case may be, and shall be subject to the limitations and restrictions provided in Article II of this act. All general obligation notes or guaranteed revenue notes shall contain the covenant required by section 404 of this act.

(b) Such notes shall be stated to mature in five years or less from the date of issue and, unless previously refunded by subsequently authorized bonds, not less than seventeen and one-half per cent in principal amount of the series shall be repaid on or before the end of the first year; an additional nineteen per cent on or before the end of the second year; an additional twenty per cent on or before the end of the third year; an additional twenty-one per cent on or before the end of the fourth year; and the balance on or before the end of the fifth year.

(c) Such notes may be issued and sold as provided in Article VII of this act.

(d) Prior to any delivery of notes to a lender the local government shall file a debt statement and a transcript of the proceedings with the department, in accordance with sections 410 and 411 of this act and no notes shall be delivered to a lender until the department shall have issued

its approval, or its approval shall be deemed to have been given pursuant to section 806 of this act.

(e) Notes may be excluded from nonelectoral debt as subsidized debt or self-liquidating debt in the manner provided in Article II.]

Section 409. Small Borrowing.—Any local government unit is hereby authorized to incur debt by ordinance to be evidenced by notes to provide funds for a project as defined in this act without complying with the requirements of Article VIII provided: (i) that the aggregate amount of such debt outstanding at any one time shall not exceed the lesser of fifty thousand dollars (\$50,000) or thirty per cent of the borrowing base; (ii) that the principal of each such debt shall mature not later than five years from the date of issuance; (iii) that the incurrence of such debt shall not cause the debt limits of Article II to be exceeded; (iv) that a debt statement prepared pursuant to section 410 certifying thereon compliance with this act shall be filed with the department; and (v) that the provisions of section 10 of Article IX of the Constitution shall have been observed.

Section 2. Subsections (a) and (b) of section 411 of the act, clause (3) of subsection (a) of section 411 amended October 11, 1972 (P.L.901, No.214), are amended to read:

Section 411. Submission to Department.—(a) Before delivering any bonds or notes *in excess of fifty thousand dollars (\$50,000) or thirty per cent of the borrowing base, whichever is lesser*, the local government unit shall apply for the approval of the department. The application, in such form as the department shall prescribe shall be accompanied by a transcript of the proceedings consisting of certified copies of any of the following which are applicable:

(1) The ordinance calling the election in the case of electoral debt with proofs of all proper advertisements;

(2) The return of election;

(3) The ordinance or ordinances or resolution authorizing the bonds or notes and prescribing the manner of sale with proofs of proper publication;

(4) The accepted proposal for the purchase of the bonds or notes;

(5) The ordinance or ordinances awarding the bonds or notes with proofs of proper publication;

(6) The debt statement prepared pursuant to section 410;

(7) Such certificates and proofs as may be necessary for the exclusion of any portion of the series proposed to be delivered or any prior series as self-liquidating debt or subsidized debt if such exclusion is desired by the local government unit.

(b) Before becoming bound *in an amount in excess of fifty thousand dollars (\$50,000) or thirty per cent of the borrowing base, whichever is lesser*, on any lease evidencing the acquisition of a capital asset, a local government unit shall apply for and receive the approval of the

department. The application, in such form as the department shall prescribe, shall be accompanied by certified copies of the following:

- (1) The ordinance authorizing the execution of the lease; and
- (2) The debt statement prepared pursuant to section 410.

* * *

Section 3. The act is amended by adding a section to read:

Section 811. Applicability.—*The provisions of this article shall not apply to any bonds, notes and lease rentals in an amount of fifty thousand dollars (\$50,000) or thirty per cent of the borrowing base whichever is less.*

Section 4. Subsection (a) of section 901 of the act, amended October 11, 1972 (P.L.901, No.214), is amended to read:

Section 901. Appeals by Interested Parties and Taxpayers.—(a) Where proceedings for the incurring of debt and sale of bonds or notes or the exclusion of debt as self-liquidating or subsidized have been taken by a local government unit and the department shall have certified or shall have been deemed to have certified its approval or disapproval of the series or the exclusion of any debt from net nonelectoral and net lease rental **or where department approval is not required** and the fact of final adoption of the ordinance approving the sale or the exclusion shall have been advertised one time in a newspaper of general circulation in the area of the local government unit, such local government unit or any other interested party, or any taxpayer of the local government unit may appeal within fifteen days from the earlier of:

- (1) The date of advertisement of the fact of the final passage of the ordinance approving the sale of the bonds; or
- (2) The date of the department's certificate of approval, the date it is deemed to have been approved, or the date of its disapproval. The appeal shall be by petition to the Commonwealth Court. The petition shall allege the error or errors in the proceedings in the manner required of bills in equity, and the burden of persuading the trier of fact as to all matters of fact shall be upon the appellant.

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Section 5. This act shall take effect immediately.

APPROVED—The 18th day of June, A. D. 1975.

MILTON J. SHAPP